

The Department of State Health Services (DSHS) is adopting a rule amendment which waives the fees charged under Title 25 of the Texas Administrative Code, Section 181.22 for a certified copy of a birth record for an individual who requires a certified copy in order to obtain an Election Identification Certificate (EIC) issued by the Department of Public Safety (DPS). This rule change does not change the requirements that apply to obtaining a certified birth record, it only waives the fee previously charged for such records. Any fees for birth records that are required by statute will not be waived by this rule amendment. The rule will go into effect October 21, 2013.

The waiver will only apply to an individual who requests a certified copy in person from the department, a local registrar, or a county clerk for the purpose of obtaining an EIC. Under DPS rules, Title 37, Section 15.182, Texas Administrative Code, an individual who applies for an EIC issued by DPS pursuant to Chapter 521A, Transportation Code, may be required to produce an original or certified copy of a birth record.

DPS reports that, to date, fewer than twenty individuals statewide have been issued an EIC. It is anticipated that an even fewer number of individuals will seek an original or certified birth record and a waiver of the fee for that record from DSHS, local registrars or county clerks for this purpose. Accordingly, DSHS believes that due to the low volume, the proposed rule amendment will not significantly affect fees and charges otherwise assessed and collected by local registrars and county clerks under Section 181.22. Texas Health and Safety Code, Section 191.0045 also requires a local registrar or county clerk who issues a certified copy of a birth record to charge the same fee as the department, and so the waiver of fees also applies to fees charged by local registrars and county clerks that issue birth records.

DSHS has received multiple comments from county judges, county clerks, local registrars and other local and state officials regarding this proposed rule change. We value this input as it has helped to provide suggestions for the procedural aspects that underlie this rule. There are some limitations on our ability to implement some of the suggestions that would require changing existing security protocols, or conflict with other requirements in rules, however, DSHS will work to implement as many of the suggested procedures as possible to address the commenters concerns.

Below are some of the procedural aspects of this change that DSHS is developing which appear to address or relate to many of the comments submitted:

DSHS will be developing a form that will require the requestor to attest to the need for the birth certificate being for the purpose(s) of obtaining an Election Identification Certificate, in addition to existing requirements for obtaining a birth certificate;

DSHS is limiting the number of birth certificates that can be obtained for this purpose to one per person. Any birth certificates requested beyond the first birth certificate that is subject to the waiver of fees, will be charged the current fee;

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Only the person seeking an Election Identification Certificate can obtain their own birth certificate. No family member or otherwise qualified applicants will be able to obtain a birth certificate subject to the waiver of fees on behalf of other persons;

DSHS is developing a method to mark the birth certificates that are issued for this purpose to state that they are for election identification purposes only; and

The fee for use of the remote access system (\$1.83/accessed record) will not be charged to local registrars and county clerks who use that system for birth certificates issued for purposes of an EIC under this rule. The fees required to be paid pursuant to Health and Safety Code, §§191.0045 (e) and 191.022(f) (\$2.00) are statutorily required and as a result are not waived by this rule and must still be charged by the DSHS, local registrars and county clerks.

DSHS will be monitoring the number of birth certificates issued for this purpose to assist counties in managing the workload.

DSHS will be providing local registrars and county clerks with additional details on the rules as well as the procedures that will be used to ensure that the issuance of any certified birth record, for which a fee must be waived under these rules, is for the sole purpose of obtaining an EIC. DSHS will also provide information on its website for the public and local officials on the process, procedures and forms regarding the waiver as well a contact person for questions on the waiver or any other aspect of this rule change. Until that time, questions may be submitted to Marc Connelly, Deputy General Counsel, Department of State Health Services, Mail Code 1966, P.O. Box 149347, Austin, Texas 78714-9347 or by email to marc.connelly@dshs.state.tx.us.